IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17-10-2006

CORAM:

THE HONOURABLE MR.JUSTICE P.SATHASIVAM
and
THE HONOURABLE MR.JUSTICE S.TAMILVANAN

H.C.P.No.738 of 2006

R. Sekar .. Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai
Egmore, Chennai 600 008.

2.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George,Chennai 600 009. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issue of a writ of Habeas Corpus as stated therein.

For petitioner : Mr.A.K.S. Thahir
for Mr. R. Karthikeyan

For respondents : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

..

ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

The petitioner by name R. Sekar, who has been detained as "Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 04.07.2006, challenges the same in this Petition.

2. Heard the learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

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3. At the foremost, the learned counsel for the petitioner submitted that there is delay in the disposal the representation of the detenu dated 04.08.2006, which vitiates the impugned detention order. As against the said contention, the learned Additional Public Prosecutor placed before us the relevant dates, which show that the representation of the detenu dated 04.08.2006 was received by the Government on 07.08.2006; the remarks were called for on 08.08.2006; remarks were received on 14.08.2006; file was placed on 14.08.2006 and the Under Secretary and the Deputy Secretary dealt with the same on 17.08.2006; the Minister for Prohibition and Excise passed orders on 18.08.2006; rejection letter was prepared on 21.08.2006; and the same was sent to the detenu on 21.08.2006 and served on him on 22.08.2006. It is also relevant to note that the intimation from the Government calling for remarks were received by the Collectorate on 09.08.2006; remarks were called for from the Sponsoring authority on 10.08.2006; remarks were received from the Sponsoring authority on 10.08.2006 itself and a report was sent to the Government on 11.08.2006 which was received by the Government on 14.08.2006. The above particulars show that there was no undue delay at any stage in considering the representation of the detenu; accordingly, we reject the said contention.

4. The learned counsel for the petitioner next submitted that in view of the fact that no copy of document has been furnished in respect of adverse cases 2, 3 and 4, the ultimate detention order passed against the detenu is vitiated. Per contra, the learned Additional Public Prosecutor submitted that in adverse cases 2, 3 and 4, the detenu was charge sheeted and all three cases are pending trial in C.C.Nos.927 to 929 of 2006 on the file of Judicial Magistrate, Alandur. He also submitted that in view of the fact that all relevant documents were duly supplied to the detenu at the time of filing the charge sheet, the grievance expressed by the petitioner cannot be sustained. Further, he brought to our notice that apart from copy of First Information Report, statements of witnesses were duly served on the detenu.

5. We verified all those documents which are available in the paper book supplied to the detenu (vide page Nos.13 to 57, 77, 97, 105, 117, 123, etc.,) It is not in dispute that in respect of first adverse case, the petitioner has no grievance. In so far as adverse cases 2, 3 and 4 are concerned, as rightly pointed out and also not disputed that all the three cases are pending trial. It is not the case of the petitioner/detenu that he was not supplied any document at the time of filing of charge sheet. Even otherwise, as rightly pointed out by the learned Additional Public Prosecutor, the relevant documents relating to the same were enclosed in the paper book. It is also not in dispute that a representation was

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made by the detenu on the basis of materials supplied and the same was duly considered and rejected. In view of the factual details as discussed above, the decision, in 1984 Law Weekly (Crl.) 200 (N. Mohamed Moosa vs. The Collector and District Magistrate, Ramnad District), relied on by the learned counsel for the petitioner, is not helpful to the case of the detenu.

6. Coming to the ground case, admittedly, copies of all the relied on documents were supplied to the detenu along with the grounds of detention. In view of the same, we reject the second contention also.

7. The learned counsel for the petitioner next contended that the detention order is liable to be quashed on the ground of wrong translation. In support of the above contention, the learned counsel for the petitioner heavily relied on the English version of Accident Register and its Tamil version, which are available at pages 117 and 119 of the paper book respectively. According to him, in the Tamil version of the Accident Register, there is a mention about cut injuries on the left fore arm and left hand, but there is no such reference in the English version of the same. We are unable to accept the said contention for the following reasons. In the First Information Report it is specifically stated that ,

> "நீ இதோடு தொலைந்து போடா என்று சொல்லி என்னை வெட்டினார். நான் குனிந்து அவன் வெட்டியதை என் இடது கையால் தடுத்தேன். அப்போது எனக்கு இடது முன்கை மற்றும் இடது கழுத்திலும் வெட்டு காயம் ஏற்பட்டது. ....."
>
> (Emphasis supplied)

The Sub-Inspector of Police, J9, Thuraipakkam Police Station has reiterated the same thing in his statement. Now, let us refer the nature of injuries mentioned in the Accident Register (Tamil version).

> "1. இடது முன்னங்கையில் வெட்டு காயம்,
> 2. இடது கையில் வெட்டு காயம்,
> 3. முதுகில் சிவந்து ரத்தம் கட்டியுள்ளது."

It is not the case of the detenu that he is not conversant with Tamil language. A perusal of contents of First Information Report, Statement of the Sub-Inspector of Police and the nature of injuries mentioned in the Accident Register (both in English and Tamil version), we are satisfied that the nature of injuries have been

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properly translated and mentioned in the Tamil version as found in its English version; accordingly, we reject the said contention.

8. In addition to the above, the learned counsel for the petitioner has contended that the injuries mentioned in the wound certificate in respect of an adverse case differ from the original accident register copy. As rightly pointed out by the learned Additional Public Prosecutor, even if we accept that there is difference in describing the nature of injuries, it relates to one of the adverse cases and we hold that it would not affect the impugned detention order.

9. The learned counsel for the petitioner next contended that the detaining authority has not considered the relevant and material aspect, namely, about the serious offences in adverse cases, and hence, his conclusion that the detenu may come out on bail cannot be accepted. In the light of the said contention, we verified paragraph 4 of the grounds of detention, wherein the detaining authority had referred to the fact that the detenu was in remand and bail application was pending before the Principal District and Sessions Judge, Chengalpet. It is true that the detaining authority has not adverted to or taken note of the possibility of the detenu to come out on bail in respect of adverse cases. However, as rightly pointed out by the learned Additional Public Prosecutor, in adverse cases 2, 3 and 4, charge sheets have been filed and all the three cases are pending trial. In such circumstances, if the detenu files bail application in those cases, there will be every possibility of the detenu to come out on bail. In so far as the first adverse case is concerned, the offence involved is 394 IPC and considering the date of occurrence, viz., 21.04.2006, the grant of bail cannot be ruled out in the said case also. In so far as the ground case, i.e., Crime No.672 of 2006 under Sections 341, 392, 427, 336, 332, 506 (2) and 307 IPC, is concerned, admittedly, the detenu has moved bail petition before the Principal District and Sessions Judge, Chengalpet in Crl.M.P.No.7215 of 2006 and on the date of passing the detention order, the same was pending. In the light of the above details, we reject the submission of the learned counsel for the petitioner.

10. Finally, the learned counsel for the petitioner submitted that the detention order was not communicated to any of the family members of the detenu. The learned Additional Public Prosecutor, by placing the original records, submitted that even on 07.07.2006 the detention order was intimated to one Mani, who is none else than the brother of the detenu (vide page 50 of the paper book); accordingly, we reject the said contention.

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11. Except the above contentions, no other ground has been raised before us by the learned counsel for the petitioner.

In the light of what is stated above, the habeas corpus petition fails and the same is dismissed.

kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Commissioner of Police,
Greater Chennai
Egmore, Chennai 600 008.

2.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George,Chennai 600 009.

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent,
Central Prison, Chennai

+ 1 cc to Mr. P. Karthikayan, Advocate SR No. 48778

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